

EXHIBIT

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U.S. Department of Justice

*United States Attorney
Eastern District of New York*

271 Cadman Plaza East
Brooklyn, New York 11201

July 3, 2013

The Honorable Catherine O'Hagan Wolfe
Clerk of the Court
United States Court of Appeals
for the Second Circuit
The Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: Wang v. United States
No. 13-2426

Dear Ms. Wolfe:

The government submits this letter in connection with the submission by Petitioner Joseph Wang in which he seeks leave to file a second or successive motion under 28 U.S.C. § 2255 based upon Miller v. Alabama, 132 S. Ct. 2455 (2012), which held unconstitutional mandatory life sentences for juveniles. Wang relies, *inter alia*, on this Court's granting of leave to file a second or successive motion in Stone v. United States, No. 13-1486, arguing that Miller is retroactive to cases on collateral review. In Stone, the government agreed with Stone that he had made a *prima facie* showing that he satisfied the successive petition filing requirements.

Although Stone involved a statutorily-required life term of imprisonment and here, instead, a mandatory Guidelines life term is applicable, at least for purposes of leave to file a successive petition, Miller applies retroactively to both under the law of this Circuit. See, e.g., United States v. Haynes, 985 F.2d 65, 69 (2d Cir. 1993) (youthful lack of guidance generally not ground for departure under mandatory Guidelines). Because we have nothing to add to Wang's submission, we do not intend to file any response beyond this letter, unless, of course, the Court so requests.

Thank you for your consideration of this matter.

Respectfully submitted,

Loretta E. Lynch,
United States Attorney

By: /s/
Peter A. Norling,
Assistant U.S. Attorney